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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Miikka Huomo

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EXAMINER

YOO, JASSON H

ART UNIT

PAPER NUMBER

3714

NOTIFICATION DATE

DELIVERY MODE

01/07/2010

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docket@dcpatent.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/568,296	<b>Applicant(s)</b> HUOMO, MIIKKA	
	<b>Examiner</b> JASSON H. YOO	<b>Art Unit</b> 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 September 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 11-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>2/14/06</u> .   | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

***Election/Restrictions***

Applicant's election with traverse of Group I, claim 1-10 in the reply filed on 9/30/09 is acknowledged. The traversal is on the ground(s) that the claims of the present application would be part of an overlapping search. This is not found persuasive because Applicant has not described what part and to what extent the claim contains an overlapping search. It appears that the overlapping elements in the groups are configurations files stored in a memory, and using the configurations files to set up game parameters. However, these elements are not considered a group of technical features that defines a contribution over the prior art since any game that comprises different type of configurations would have these limitations. The differences of where the configuration files are stored, how they are retrieved, and what is used to configure the game parameters are considered to be the technical features since each differences would change the physical components of an invention and how the components operate. As indicated in the Requirement for Restriction/Election mailed 7/30/09, the groups lack unity because the groups do not share the same technical features.

The requirement is still deemed proper and is therefore made FINAL.

Claims 11-19 withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 9/30/09.

***35 USC § 112 6<sup>th</sup> paragraph***

Claim 1 recites the claim limitation of means for identifying the current device configuration, means for using the data structure, and means for controlling the game. Claims 6-8 incorporate the claim limitations of means for updating the data structure, means for controlling the game, and means for temporarily controlling. The means for are not modified by functional language, sufficient structure, material or specified function, and thus invoke 35 USC 112 sixth paragraph. The claim limitations of means for identifying the current device configuration, means for using the data structure, means for controlling the game, means for updating data structure and means for temporarily controlling the game will be interpreted as a processor as indicated in Applicant's specification paragraphs 20, 43, 46, 53.

Furthermore, claim 5 incorporates the claim limitation of means by which the user selects a sub-set of parameters. The "means" is not modified by sufficient structure, material or acts and thus will be interpreted as a user input device 18, according to paragraphs 18-19, 21, 33 of Applicant's specification.

***Claim Rejections - 35 USC § 112***

Claims 1-10 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claim 1-10 incorporates the claim limitation of, “a memory storing a data structure that associates each one of a plurality of device configuration with a respective game configuration wherein each game configuration differently specifies one or more parameters of the game.” Applicant’s specification fails to disclose how the data structure associates a plurality of device configuration with a respective game configuration. Applicant’s specification (paragraph 37) discloses that updating the data structure may enable the game configuration associated with a particular device configuration to be updated. Paragraph 47 also discloses that game parameters may be associated with the device in the data structure. However, there is no description on how a data structure associates each one of a plurality of device configuration with a respective game configuration.

Furthermore, Applicant specification discloses both game configuration and device configurations are used to change game parameters (paragraphs 26, 30, 32, 37-39, 46-53). However, the specification does not clearly define the terms “device configuration” and “game configuration” or describe how the two terms are different. Paragraph 36 states that the set of game parameters associated with a physical device configuration may be referred to as a game configuration. Thus it appears that the terms “device configuration” and “game configuration” both refer to data that modifies a game according to game parameters. Therefore it is not clear how the data structure associates a plurality of device configurations with a respective game configuration if the device configuration is a game configuration.

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The claims will be examined based on the Examiner's best understanding of the claims.

Claim 1 recites the limitation "the current device configuration" in line 7. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Tatsuta (US 2002/0125318).**

**Claim 1.** Tatsuta discloses **a gaming device** (Fig. 1 and 40) **for playing a game including one or more parameters that affect a user's participation in the game** (game parameters including character, weapons, techniques, items, stats, capabilities, see abstract, paragraphs 140, 165-174), **the gaming device comprising:**

**a memory storing a data structure** (According to Applicant's specification paragraphs 36-38, 46, it appears that a data structure 17 is game data that can be modified according to different game configurations. Tatsuta also discloses a memory,

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202, to store game data that can be modified according to different game configuration, paragraphs 92, 174, 177) **that associates each one of a plurality of device configurations with a respective game configuration** [Tatsuta discloses the memory 202 stores game structure/data that is modified to store data pertaining to a plurality of device configurations (code data and restored information, paragraphs 105, 151) by scanning a plurality of different cards (Fig. 40, paragraph 165). Each code data and restored information is associated with a game configuration by specifying how a game is modified according to different parameters (paragraphs 110, 171).], **wherein each game configuration differently specifies one or more parameters of the game** (parameters including character, weapons, techniques, items, stats, capabilities, paragraphs 110, 165-174);

**means for identifying the current device configuration for the device** (CPU 107 identifies the current device configuration for the device read from the code 401, and CPU 302 identifies the current device configuration for the device read from the memory 202. See paragraph 105);

**means for using the data structure to determine a current game configuration associated with the current device configuration** (CPU 302 determines a current game configuration according to an application program by reading the data and parameters stored in the RAM 202. See paragraphs 94, 174, 179); and

**means for controlling the game by setting parameters in the game as specified by the current game configuration** (CPU controls the game according the

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game program and the parameters of the game configuration. See paragraphs, 92, 94, 99, 174, 179).

**Claim 2.** Tatsuta discloses that **the game comprises gaming objects and the at least one game configuration specifies a parameter that creates a gaming object** (parameters to create weapons, protectors, magic; paragraphs 166-168).

**Claim 3.** Tatsuta discloses that **the gaming comprises at least one user gaming object** (game character such as animal, person, monster; paragraphs 165-168) **and the created gaming object affects an attribute of the user gaming object** (weapons, protectors, magic are used by the game character; paragraphs 166-168).

**Claim 4.** Tatsuta discloses that **the game comprises at least one gaming object** (weapons, protectors, magic are used by the game character; paragraphs 166-168) **and at least one user gaming object** (game character such as animal, person, monster; paragraphs 165-168) **and at least one game configuration specifies a parameter that affects an attribute of the gaming object or an attribute of the user gaming object** (Character can have attributes of techniques, strength, power, hit-point, and offensive and defensive capabilities as disclosed in paragraphs 166-168. Items can also have attributes such as magical power or hidden power as disclosed in paragraph 167).



**Claim 5.** Tatsuta discloses that **the gaming device further comprising means by which the user selects a sub-set of parameters specified in the current game configuration for use as parameters in the game** (Using the operating section 305 in Figs. 1 and 40 to play the game, parameters of power data/items may be selectively used. See paragraphs 167, 174).

**Claim 6.** Tatsuta discloses **means for updating the data structure** (Memory, 202, to store game data that can be modified by the processor 302 for different game configuration, paragraphs 92, 105, 174, 179)

**Claim 7.** Tatsuta discloses **means for controlling the game by setting parameters in the game as specified by previous game configurations** (Tatsuta discloses the modified parameters are used when they are selected. For example, user can select the parameters of a weapon, magical technique, etc. See paragraph 174. Therefore the CPU controls the previous parameters to be used until the new parameters are selected. For example, a character with no weapon or an old weapon is used until the new weapon is selected. Furthermore, if the previous game configurations are obtained from a card, the CPU can control the game with parameters specified by previous game configuration but load data from the previous card.).

**Claim 8.** Tatsuta discloses **means for temporarily controlling the game by setting parameters in the game as specified by a virtual game configuration**

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**associated with a virtual device configuration selected by the user** (Game program is executed by the CPU 302 as disclosed in paragraphs 92 and 94. Virtual game items and powers controlled according to the game program by the CPU can be used temporarily for a predetermined period of time. See paragraph 67.).

**Claim 9.** Tatsuta discloses **means for controlling the game, are operable to set parameters in the game as specified by the current game configuration at the instantiation of the game** (As discussed above, the game controlled by the CPU by executing the game program. The game parameters can be a game character as disclosed in paragraph 166 and 168. Thus the game parameters are set at the instantiation--or at the start of the game play using a character specified by the game parameters.).

**Claim 10.** Tatsuta discloses that **the parameters set at the instantiation of the game are variable while the game is played** (This limitation is interpreted that game parameters can change for a game session as suggested in paragraphs 25 and 37 of Applicant's specification. Tatsuta discloses that there a plurality of different game configuration with different game parameters. See paragraphs 165 and 170. Thus variable game parameters are set at the instantiation of the game when a different game configuration is used for a game session.).

**Claims 1-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Final Fantasy game manual (game released date: July 12 1990).**

Applicant's specification discloses that a game configuration may specify parameters that specifies game objects, user game objects, or attributes. The game object may be an accessory that can be obtainable during normal game play (paragraph 32 of Applicant's specification). The claimed invention is directed to a gaming machine comprising a memory to store a data structure with device configurations associated with a game configuration which specifies one or more game parameters, and modifying the game according game parameters. The claims are broad enough to read on any game that has a game character or a game object, in which the game character or the game object can be replaced or modified. The feature of having characters, game objects, or attributes that can be replaced or modified is well known in the art within Role-playing games. An example of such Role-playing game is Final Fantasy. Final Fantasy is role-playing game for the Nintendo Entertainment System (hereinafter as "NES") released on July 12 1990. Final Fantasy game manual (hereinafter as "FF1") will be used to describe the claim limitation below.

**Claim 1.** FF1 discloses **a gaming device** (FF1 is a game manual for a game program in NES. Thus it is inherent that NES is used to play the game.) **for playing a game including one or more parameters that affect a user's participation in the game, the gaming device comprising:**

**a memory** (Final Fantasy is a game which is inherently stored in an NES game cartridge) **in storing a data structure** (game data that is inherently stored in with the game program within the memory) **that associates each one of a plurality of device configurations** (data pertaining to character, equipment, items, page 11, 15, 35) **with a respective game configuration** (each data is associated to how the game is configured or how the game is played), **wherein each game configuration differently specifies one or more parameters of the game** (The game configuration specifies a parameter associated to character, magic, items, character attributes, item attributes, magic attributes that can be obtained during the game. See pages 3, 10-15, 19, 21, 34-35, 45, 50, 75-79.);

**means for identifying the current device configuration for the device** (NES inherently comprises a processor to identify the selected, equipped, purchased, or earned device configuration);

**means for using the data structure to determine a current game configuration associated with the current device configuration** (NES inherently comprises a processor to use game data and determine the game configuration associated with the device configuration); and

**means for controlling the game by setting parameters in the game as specified by the current game configuration** (NES inherently comprises a processor to set the parameters specified by the selected game configuration. See pages 3, 10-15, 19, 21, 34-35, 45, 50, 75-79.).

**Claim 2.** FF1 discloses that **the gaming comprises gaming objects and the at least one game configuration specifies a parameter that creates a gaming object** (weapons, armor, magic, items; pages 10-15).

**Claim 3.** FF1 discloses that **the gaming comprises at least one user gaming object** (game character; pages 3, 34-35) **and the created gaming object affects an attribute of the user gaming object** (objects are used by characters, pages 19-23).

**Claim 4.** FF1 discloses **the game comprises at least one gaming object and at least one user gaming object and at least one game configuration specifies a parameter that affects an attribute of the gaming object or an attribute of the user gaming object** (Parameters can specify different attributes of weapon, armor, magic, i.e. white magic, black magic, level; see pages 13, 19, 45. Parameters can specify different attributes of character, such as restore, HP; pages 14-15, 19, 31. There are different character attributes according to the selected occupation; page 35).

**Claim 5.** FF1 discloses that **the gaming device further comprising means by which the user selects a sub-set of parameters specified in the current game configuration for use as parameters in the game.** (For example, the parameter may be an occupation of a white mage for the character; page 35. There are different types of magic spell to select from using the control pad, page 19).

**Claim 6.** FF1 discloses **means for updating the data structure** (Processor inherently updates the game data to the selected game configuration. For example, updating the data structure so that the parameters are set to specified equipment; page 12.).

**Claim 7.** FF1 discloses **means for controlling the game by setting parameters in the game as specified by previous game configurations** (Processor inherently controls the game to specify a previous game configuration. For example, selecting previous equipment; page 12.).

**Claim 8.** FF1 discloses **means for temporarily controlling the game by setting parameters in the game as specified by a virtual game configuration associated with a virtual device configuration selected by the user** (Processor inherently controls the game to set the game parameters. FF1 discloses that certain parameters are temporary available in the game. For instance, when equipment is replaced as described in page 12, or a potion is used as described in pages 15, 19, 21.).

**Claim 9.** FF1 discloses **means for controlling the game, are operable to set parameters in the game as specified by the current game configuration at the instantiation of the game** (Processor inherently controls the game to set the game parameters. FF1 also discloses that parameters pertaining to type of character,

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equipment and items are set at the instantiation of the game when the type of character is selected, when the equipment is equipped, or when the item is used. See pages, 3, 12, 15, 19, 21).

**Claim 10.** FF1 discloses that **the parameters set at the instantiation of the game are variable while the game is played** (The type of character is variable, the equipment is variable and the item used is also variable. See pages, 3, 12, 15, 19, 21, 34-35).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Siegel (US 2003/0134679) discloses that character data obtained from an external device is used for game configuration that specifies one or more parameters of the game. The parameters may include different characters, attributes, and items (see abstract).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JASSON H. YOO whose telephone number is (571)272-5563. The examiner can normally be reached on 9:00am - 5:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dmitry Suhol can be reached on (571) 272-4430. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jasson H Yoo/  
Examiner, Art Unit 3714